

**LOUISIANA PUBLIC SERVICE COMMISSION**

**ORDER NO. U-33011-B**

**MO-DAD UTILITIES, LLC, EX PARTE**

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*Docket No. U-33011, In re: Application for Rate Increase and Request for Letter of Non-Opposition to Borrowing Funds.*

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(Decided at the March 15, 2017 Business and Executive Session)

**Background**

Mo-Dad Utilities, LLC (hereinafter called “MDU” or “the Company”) filed an application with the Louisiana Public Service Commission (hereinafter called “LPSC” or “the Commission”) on May 17, 2016 requesting a letter of non-opposition to borrow funds necessary to fund improvements required by the Compliance Orders issued by the Louisiana Department of Environmental Quality (“LDEQ”). Notice of the filing was published in the Commission’s Official Bulletin On May 20, 2016. There were no interventions and the Company published notice of the filing in the official journal and parish journals of the customers the Company serves timely. MDU is also requesting authority to increase its sewer rates in order to cover the debt service requirements of the requested loan. MDU is an LPSC regulated sewer company that currently provides sewer services to customers located within Ascension, Livingston, St. Helena, West Baton Rouge, East Baton Rouge, and Tangipahoa Parishes. The Company provides sewer services to approximately 8,021 residential customers and 20 commercial customers, for a total of 8,041 sewer customers. MDU also provides water services to approximately 45 customers in Livingston Parish that are charged a flat rate.

The Company claims that a revenue increase is necessary in order to cover the debt service requirements of the requested loan, which is needed to fund mandatory improvements required by the LDEQ *Amended Consolidated Compliance Order and Notice of Potential Penalty WE-CN-14-00412B* dated November 20, 2015. The total estimated cost of the improvements mandated by the Compliance Orders, based on three (3) independent bids, range from \$16,913,923 to \$30,170,208. After several failed attempts to secure financing with multiple lenders, MDU was finally able to secure a lending agreement with CoBank. The Conditional Letter of Interest is for an amount not to exceed \$17,000,000 and will be drawn down as funds are expended for the improvements. The term of the loan is fifteen (15) years at an interest rate of 5.25%. The Debt Service Coverage Ratio required is 1.5 times. A condition of the loan requires the establishment of an \$850,000 reserve for unexpected capital needs. This

reserve would be established on a monthly basis of \$22,222 per month for thirty-six (36) months and if utilized, replenished on a monthly basis in the same amount.

MDU claims that the revenue relief requested in order to cover the cost of principal and interest of the loan will result in an increase to the customer’s monthly bill of \$28.21. Funding the reserve fund requires an additional increase to the customer’s monthly bill of \$3.03, for a total monthly bill increase of \$31.24.

The Company’s proposed sewer rates were as follows:

<b><u>SEWER SERVICE:</u></b>	<b>Present Rate/Mo. Bill</b>	<b>Proposed Rate/Mo. Bill</b>	<b>Proposed \$ Increase</b>
Residential	\$ 35.56	\$ 66.80	\$ 31.24
Commercial	\$ 38.00	\$ 69.24	\$ 31.24

Staff performed an extensive review of the Company’s financial statements and made the appropriate disallowances. Staff also sent out several sets of data requests and held several telephonic conferences with the Company’s attorney of record and the CPA hired to assist the Company in getting their books in order. On February 3, 2017, Staff filed its Staff Report into the record. On February 9, 2017, MO-Dad acknowledged that the Company was in support of Staff’s Report and the recommendations made therein. Thereafter, the parties filed a Joint Motion to Schedule an Uncontested Stipulated Hearing and Uncontested Stipulation Packet on February 10, 2017 requesting that the stip hearing be held on February 21, 2017. The uncontested stipulated hearing was held on February 21, 2017.

Staff and Mo-Dad agreed to Staff’s recommendation and entered into an uncontested stipulated settlement agreement. The terms of the agreement are as follows:

1. The Company shall be authorized to increase its flat sewer rates as follows:

<b><u>SEWER SERVICE:</u></b>	<b>Present Rate/Mo. Bill</b>	<b>Recomm. Rate/Mo. Bill</b>	<b>Recomm. \$ Increase</b>	<b>Recomm. % Increase</b>
Residential	\$ 35.56	\$ 60.10	\$ 24.54	69.01%
Commercial	\$ 38.00	\$ 64.50	\$ 26.50	69.74%

2. The Company shall be granted a letter of non-opposition to borrow funds from CoBank in the amount of \$17,000,000 for a term of fifteen (15) years at a rate of 5.25%.
3. The \$17,000,000 loan funds are not to be used to repay any existing shareholders debts.

4. The Company shall be allowed to establish a DSC reserve fund, as required by CoBank for unexpected capital needs, such as unplanned or emergency equipment replacement, natural disasters, or debt service. The reserve fund shall not exceed \$850,000. This reserve fund is to be funded in the amount of \$22,222 on a monthly basis over thirty-six (36) months and if utilized, replenished on a monthly basis in the same amount.
5. The Company must give the Commission written notice of any withdrawals taken from the reserve fund within 30 days from the withdrawal. The letter shall outline the amount of the withdrawal, the date the withdrawal took place, receipts for the alleged project along with a detailed project completion report.
6. The Company shall file a report every calendar year stating the amount in the reserve fund along with an end of the year bank statement reflecting the balance amount.
7. The Company must come in after at least thirty-six (36) months after rates are put in place for a full rate review.
8. The Company shall file into Docket No. U-33011 and provide the LPSC Staff with a copy of the signed loan agreement outlining all the terms and conditions of the financing between MDU and Co Bank within 30 days of the loan completion date.
9. The Company shall continue to pay Utility and Carrier Inspection and Supervision fees to the Louisiana Department of Revenue, per La. R.S. 45:1177.
10. The Company shall maintain all depreciation schedules using NARUC guidelines for capitalization, as well as IRS Publication 946, Appendix B for determining the estimated useful lives of assets.
11. The Company shall use the NARUC Uniform System of Accounting for Class A Wastewater Companies. This can be purchased online at <http://www.naruc.org/Store/> or by calling (202) 898-2200.
12. The Company shall file into Docket No. U-33011 and provide the LPSC Staff with a copy of quarterly reports on the status of the LDEQ mandated improvements. Reports will identify the improvements made and the costs associated with those improvements. Detailed documentation of expenditures associated with the improvements will be submitted in conjunction with the quarterly reports. Reports will be due the last day of the month following the end of each quarter.
13. If the Commission approves any changes in rates, the Company shall be ordered to file into Docket No. U-33011 and copy the Commission's Utilities Division, a new or revised tariff reflecting the Commission action, within thirty (30) days of the issuance of the Order.
14. The Company is notified that they are to comply with the LPSC's General Orders dated March 18, 1994 and/or November 13, 1996, as applicable, prior to selling, assigning, leasing, transferring, mortgaging, or otherwise disposing of or encumbering any assets, or issuing any security or assuming any obligation or liability, or receiving infusions of capital from any other public utility, or from any other person, including MDU's owners, where the values involved in such action exceed one percent (1%) of the gross assets involved. If the Company fails to abide by these Orders than the Commission may choose to disallow any transactions not approved by the Commission in any future rate case or letter of non opposition.

**Jurisdiction:**

The Commission exercises jurisdiction in this proceeding pursuant to Article IV, Section 21 (B) of the Louisiana Constitution of 1974, which provides in pertinent part:

The commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by

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law. It shall adopt and enforce reasonable rules, regulations, and procedures necessary for the discharge of its duties, and perform other duties as provided by law.

Additional regulatory authority is contained Louisiana Revised Statute 45:1163(a)(1), which provides that

The Commission shall exercise all necessary power and authority over any street, railway, gas, electric light, heat, power, waterworks, or other local public utility for the purpose of fixing and regulating the rates charged or to be charged by and service furnished by such public utilities.

### **Commission Action**

At the March 15, 2017 B&E session, on motion of Chairman Angelle, seconded by Vice Chairman Skrmetta, and unanimously adopted, the Commission voted to adopt the Uncontested Stipulated Settlement with modifications. In addition to the requirements and conditions in the Stipulated Settlement as filed, Staff and Mo-Dad agreed on the record to the following:

1. The rate being granted will be implemented over three years; Year one increase being \$52.10, year two increase being \$57.10, and year three being \$60.10 or upon completion of all capital improvements.
2. The Company shall accomplish the capital improvements and follow the schedule provided in the attached **Schedule A**, or as modified by LDEQ. The Company shall commence work on the capital improvements by the first quarter following the funding of the loan.
3. The Company shall submit audited financial reports of the previous calendar year by July 1, with the first report being due July 1, 2018, for the duration of the loan.
4. The Company establishes a separate account within the Company's chart of accounts, capital improvements loan.
5. The Company establishes a separate account within the Company's chart of accounts to be separated from the Company's operations and restricted to use as a reserve fund in an amount not to exceed \$850,000.00.
6. The Company shall notify the customers of the capital improvements to their system and the timeline for completion of work at least 30 days prior to the commencement of work on the capital improvements.

Vice Chairman Skrmetta directed Staff to solicit proposals under the amount of \$50,000 for an engineer to inspect the capital improvements.

Vice Chairman Skrmetta stated he believed a dialogue needed to happen between Mo-Dad, parish government and the Governor's office to develop a mechanism to build a discharge pipe that will not have any environmental consequences.

Chairman Angelle suggested that Mo-Dad reach out to the Coastal Protection and Restoration Authority regarding their interest in the discharge.

### **IT IS THEREFORE ORDERED:**

That the Proposed Uncontested Stipulated Settlement reached by the parties is accepted as specified in the attached Uncontested Stipulated Settlement and as set forth below subject to the additional conditions as agreed to by Mo-Dad and Staff on the record at the B&E.

Staff and Mo-Dad agreed to Staff’s recommendation and entered into an uncontested stipulated settlement agreement. The terms of the uncontested stipulated settlement as well as the additional conditions agreed to by the parties on the record at the B&E are as follows:

- 1. The Company shall be authorized to increase its flat sewer rates as follows:

	Present		Recomm.		Recomm.
	Rate/Mo. Bill		Rate/Mo. Bill		\$ Increase
<b><u>SEWER SERVICE:</u></b>					
Residential	\$ 35.56	\$	60.10	\$	24.54
Commercial	\$ 38.00	\$	64.50	\$	26.50

- 2. The rate being granted will be implemented over three years; Year one increase being \$52.10, year two increase being \$57.10, and year three being \$60.10 or upon completion of all capital improvements.
- 3. The Company shall accomplish the capital improvements and follow the schedule provided in the attached **Schedule A**, or as modified by LDEQ. The Company shall commence work on the capital improvements by the first quarter following the funding of the loan.
- 4. The Company shall submit audited financial reports of the previous calendar year by July 1, with the first report being due July 1, 2018, for the duration of the loan.
- 5. The Company establishes a separate account within the Company’s chart of accounts, to track and restrict expenditures of the capital improvements loan.
- 6. The Company establishes a separate account within the Company’s chart of accounts to be separated from the Company’s operations and restricted to use as a reserve fund in an amount not to exceed \$850,000.00.
- 7. The Company shall notify the customers of the capital improvements to their system and the timeline for completion of work at least 30 days prior to the commencement of work on the capital improvements.
- 8. The Company shall be granted a letter of non-opposition to borrow funds from CoBank in the amount of \$17,000,000 for a term of fifteen (15) years at a rate of 5.25%.
- 9. The \$17,000,000 loan funds are not to be used to repay any existing shareholders debts.
- 10. The Company shall be allowed to establish a DSC reserve fund, as required by CoBank for unexpected capital needs, such as unplanned or emergency equipment replacement, natural disasters, or debt service. The reserve fund shall not exceed \$850,000. This reserve fund is to be funded in the amount of \$22,222 on a monthly basis over thirty-six (36) months and if utilized, replenished on a monthly basis in the same amount.
- 11. The Company must give the Commission written notice of any withdrawals taken from the reserve fund within 30 days from the withdrawal. The letter shall outline the amount of the withdrawal, the date the withdrawal took place, receipts for the alleged project along with a detailed project completion report.
- 12. The Company shall file a report every calendar year stating the amount in the reserve fund along with an end of the year bank statement reflecting the balance amount.
- 13. The Company must come in after at least thirty-six (36) months after rates are put in place for a full rate review.
- 14. The Company shall file into Docket No. U-33011 and provide the LPSC Staff with a copy of the signed loan agreement outlining all the terms and conditions of the financing between MDU and Co Bank within 30 days of the loan completion date.

15. The Company shall continue to pay Utility and Carrier Inspection and Supervision fees to the Louisiana Department of Revenue, per La. R.S. 45:1177.
16. The Company shall maintain all depreciation schedules using NARUC guidelines for capitalization, as well as IRS Publication 946, Appendix B for determining the estimated useful lives of assets.
17. The Company shall use the NARUC Uniform System of Accounting for Class A Wastewater Companies. This can be purchased online at <http://www.naruc.org/Store/> or by calling (202) 898-2200.
18. The Company shall file into Docket No. U-33011 and provide the LPSC Staff with a copy of quarterly reports on the status of the LDEQ mandated improvements. Reports will identify the improvements made and the costs associated with those improvements. Detailed documentation of expenditures associated with the improvements will be submitted in conjunction with the quarterly reports. Reports will be due the last day of the month following the end of each quarter.
19. If the Commission approves any changes in rates, the Company shall be ordered to file into Docket No. U-33011 and copy the Commission's Utilities Division, a new or revised tariff reflecting the Commission action, within thirty (30) days of the issuance of the Order.
20. The Company is notified that they are to comply with the LPSC's General Orders dated March 18, 1994 and/or November 13, 1996, as applicable, prior to selling, assigning, leasing, transferring, mortgaging, or otherwise disposing of or encumbering any assets, or issuing any security or assuming any obligation or liability, or receiving infusions of capital from any other public utility, or from any other person, including MDU's owners, where the values involved in such action exceed one percent (1%) of the gross assets involved. If the Company fails to abide by these Orders than the Commission may choose to disallow any transactions not approved by the Commission in any future rate case or letter of non opposition.

This Order is effective immediately.

**BY ORDER OF THE COMMISSION  
BATON ROUGE, LOUISIANA**

March 31, 2017

**/S/ SCOTT A. ANGELLE**

**DISTRICT II**

**CHAIRMAN SCOTT A. ANGELE**

**/S/ FOSTER L. CAMPBELL**

**DISTRICT V**

**COMMISSIONER FOSTER L. CAMPBELL**

**/S/ LAMBERT C. BOISSIERE**

**DISTRICT III**

**COMMISSIONER LAMBERT C. BOSSIERE, III**

**/S/ ERIC F. SKRMETTA**

**DISTRICT I**

**VICE CHAIRMAN ERIC F. SKRMETTA**

  
**EVE KAHAO GONZALEZ**  
**SECRETARY**

**/S/ MIKE FRANCIS**

**DISTRICT IV**

**COMMISSIONER MIKE FRANCIS**